

David J. Bradley, Clerk

Eddie Lewis Carter, a state inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ”), has filed a civil rights complaint under 42 U.S.C. § 1983 to challenge the result of a prison disciplinary conviction. At the Court’s request, Lewis has filed a more definite statement of his claims [Doc. # 10]. Because Lewis is a prisoner proceeding *in forma pauperis*, the Court is required by the Prison Litigation Reform Act (“PLRA”) to scrutinize the pleadings and dismiss the case if it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. §§ 1915A(b), 1915(e)(2)(B). After reviewing all of the pleadings and the applicable law, the Court concludes that this case must be dismissed for reasons set forth below.

I. BACKGROUND

Carter is currently confined at the Ramsey Unit in Rosharon.¹ The disciplinary proceeding that forms the basis for his complaint occurred at the Garza East Unit in Beeville, where Carter was previously confined.² Carter sues the following prison officials who are employed by TDCJ at the Garza East Unit: (1) Lieutenant Brown; (2) Correctional Officer Erick Galeas; (3) Warden Gordy; and (4) Grievance Coordinator B. Barnett.³

Carter contends that Officer Galeas filed false disciplinary charges against him on May 27, 2017, in TDCJ Case No. 20170288747 for being “out of place” without authorization.⁴ Carter was convicted of those charges following a hearing held on May 31, 2017.⁵ As punishment, the disciplinary hearing officer (Lieutenant Brown) curtailed Carter’s commissary and recreation privileges for 30 days.⁶ Carter appealed

¹ Complaint [Doc. # 1], at 3.

² *Id.*

³ *Id.*

⁴ *Id.* at 4; Plaintiff’s More Definite Statement [Doc. # 10], at 1.

⁵ Plaintiff’s More Definite Statement [Doc. # 10], at 1.

⁶ *Id.* at 2.

the conviction, arguing that the disciplinary charge and testimony given by Officer Galeas was false, but Carter's appeal was unsuccessful.⁷

Carter contends that Officer Galeas committed perjury and that Lieutenant Brown obstructed justice by finding him guilty based on the false testimony given at the disciplinary hearing.⁸ Carter contends further that Grievance Coordinator Barnett failed to conduct a proper investigation and that Warden Gordy failed to overturn the false disciplinary conviction on appeal.⁹ Alleging that the defendants violated his constitutional right to due process,¹⁰ Carter seeks compensatory and punitive damages, as well as injunctive relief.¹¹

II. DISCUSSION

An inmate's rights in the prison disciplinary context are governed by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *See Wolff v. McDonnell*, 418 U.S. 539, 557 (1974). Prisoners charged with institutional rules violations are entitled to rights under the Due Process Clause *only* when the disciplinary action may result in a sanction that will infringe upon a constitutionally

⁷ *Id.* at 2-3.

⁸ *Id.*

⁹ *Id.* at 3-4.

¹⁰ *Id.*

¹¹ Complaint [Doc. # 1], at 4.

protected liberty interest. *See Sandin v. Conner*, 515 U.S. 472 (1995). A Texas prisoner can demonstrate a constitutional violation in connection with a prison disciplinary proceeding only if he first satisfies the following criteria: (1) he must be eligible for early release on the form of parole known as mandatory supervision; and (2) the disciplinary conviction at issue must have resulted in a loss of previously earned good-time credit. *See Malchi v. Thaler*, 211 F.3d 953, 957-58 (5th Cir. 2000) (explaining that only those Texas inmates who are eligible for early release on mandatory supervision have a protected liberty interest in their previously earned good-time credit).

Carter cannot demonstrate a constitutional violation in this instance because he concedes that he did not lose any good-time credit as a result of the challenged disciplinary conviction.¹² This is fatal to Carter's claims. *See Malchi*, 211 F.3d at 957-58. Although the disciplinary conviction at issue resulted in the loss of privileges, the Fifth Circuit has recognized that sanctions such as these, which are "merely changes in the conditions of [an inmate's] confinement," do not implicate due process concerns. *Madison v. Parker*, 104 F.3d 765, 768 (5th Cir. 1997). Because Carter cannot demonstrate a constitutional violation under these circumstances, he

¹² Plaintiff's More Definite Statement [Doc. # 10], at 2.

fails to state a claim upon which relief may be granted and his complaint must be dismissed.

III. CONCLUSION AND ORDER

Based on the foregoing, the Court **ORDERS** as follows:

1. The complaint filed by Eddie Lewis Carter (TDCJ #443870) is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim.
2. The dismissal will count as a “strike” for purposes of 28 U.S.C. § 1915(g).

The Clerk is directed to provide a copy of this order to the plaintiff and to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov.

SIGNED at Houston, Texas, on June 25th, 2018.



NANCY F. ATLAS
SENIOR UNITED STATES DISTRICT JUDGE